

EXHIBIT D

Cooper, Monte

From: Cooper, Monte
Sent: Tuesday, February 28, 2006 4:55 PM
To: 'John.Hornick@finnegan.com'; 'Bhanu.Sadasivan@hellerehrman.com'
Cc: Walker, Joshua; 'dan.hampton@hklaw.com'; 'robert.hawk@hellerehrman.com';
'troy.grabow@finnegan.com'; 'margaret.esquenet@finnegan.com'; 'pat.hart@finnegan.com';
Nagel, Robert; Guy, Hopkins; 'joczek@proskauer.com'; Chatterjee, I. Neel;
'sbauer@proskauer.com'
Subject: Re: Discovery Conference Followup

John:

In saying that you "disagree," could you clarify:

(1) Are you unable to explain why ConnectU was unable to raise this amendment prior to the deadline the Court originally set for amendments? If not, would you kindly explain the late request?

(2) Is there some reason this request has been made now, as opposed to when Defendants moved to dismiss?

(3) Related to (2) is there a particular reason Plaintiff cannot explain its reasons for seeking now, as opposed to 2, 3 or even 6 months ago, the proposed amendment?

Monte

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Hornick, John <John.Hornick@finnegan.com>
To: Cooper, Monte <MCOOPER@ORRICK.COM>; Bhanu.Sadasivan@hellerehrman.com
<Bhanu.Sadasivan@hellerehrman.com>
CC: Walker, Joshua <jwalker@orrick.com>; dan.hampton@hklaw.com <dan.hampton@hklaw.com>;
robert.hawk@hellerehrman.com <robert.hawk@hellerehrman.com>; Grabow, Troy
<troy.grabow@finnegan.com>; Esquenet, Margaret <margaret.esquenet@finnegan.com>; Hart, Pat
<pat.hart@finnegan.com>; Nagel, Robert <rnagel@orrick.com>; Guy, Hopkins
<HOPGUY@Orrick.com>; Joczek <joczek@proskauer.com>; Chatterjee, I. Neel
<NCHATTERJEE@Orrick.com>; Sbauer <sbauer@proskauer.com>
Sent: Tue Feb 28 12:25:13 2006
Subject: RE: Discovery Conference Followup

We respectfully disagree.

From: Cooper, Monte [mailto:MCOOPER@ORRICK.COM]
Sent: Tuesday, February 28, 2006 3:22 PM
To: Hornick, John; Bhanu.Sadasivan@hellerehrman.com
Cc: Walker, Joshua; dan.hampton@hklaw.com; robert.hawk@hellerehrman.com; Grabow, Troy;
Esquenet, Margaret; Hart, Pat; Nagel, Robert; Guy, Hopkins; joczek@proskauer.com;
Chatterjee, I. Neel; sbauer@proskauer.com
Subject: Re: Discovery Conference Followup

John:

In order to answer your question, I requested relevant information. If you refuse to provide it, we must assume you concede you have no reasons for the late amendment.

Accordingly, since the amendment violates the original Scheduling Order, Defendants cannot agree to it, given the admitted absence of excuse. Moreover, in light of the Motion to Dismiss, I believe your amendment requires its own formal motion.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Hornick, John <John.Hornick@finnegan.com>
To: Cooper, Monte <MCOOPER@ORRICK.COM>; Bhanu.Sadasivan@hellerehrman.com <Bhanu.Sadasivan@hellerehrman.com>
CC: Walker, Joshua <jwalker@orrick.com>; dan.hampton@hkklaw.com <dan.hampton@hkklaw.com>; robert.hawk@hellerehrman.com <robert.hawk@hellerehrman.com>; Grabow, Troy <troy.grabow@finnegan.com>; Esquenet, Margaret <margaret.esquenet@finnegan.com>; Hart, Pat <pat.hart@finnegan.com>; Nagel, Robert <rnagel@orrick.com>; Guy, Hopkins <HOPGUY@Orrick.com>; Joczek <joczek@proskauer.com>; Chatterjee, I. Neel <NCHATTERJEE@Orrick.com>; Sbauer <sbauer@proskauer.com>
Sent: Tue Feb 28 12:08:09 2006
Subject: RE: Discovery Conference Followup

Monte:

We asked a simple question: Do Facebook Defendants consent to the proposed amendments. Please answer.

Sincerely,

John

-----Original Message-----

From: Cooper, Monte [mailto:MCOOPER@ORRICK.COM]
Sent: Sunday, February 26, 2006 12:16 PM
To: Hornick, John; Bhanu.Sadasivan@hellerehrman.com
Cc: Walker, Joshua; dan.hampton@hkklaw.com; robert.hawk@hellerehrman.com; Grabow, Troy; Esquenet, Margaret; Hart, Pat; Nagel, Robert; Guy, Hopkins; Joczek; Chatterjee, I. Neel; Sbauer
Subject: RE: Discovery Conference Followup

John:

I am out of the office at the moment. Attached is a pdf of my unsigned letter response to the issues you raise, except for your motion to amend the Complaint. My secretary will send you the signed copy of the letter tomorrow (she will be signing for me).

With respect to the motion to amend, we would ask that consistent with formal motion practice, you set out the reasons for such an amendment, including why no such motion previously was made by Plaintiff. Likewise, we need to know why you expect the motion can be reconciled with the deadlines that previously existed for amendments, as well as the pending motion to dismiss.

Finally, you indicate that you intend to raise the proposed motion to amend at the hearing on Friday. I note that is wholly improper not merely insofar as the motion is not even ripe, but also because there has been no Order of Reference permitting the "amendment" even to be considered.

Monte

-----Original Message-----

From: Hornick, John [mailto:John.Hornick@finnegan.com]
Sent: Friday, February 24, 2006 3:34 PM
To: Cooper, Monte; Bhanu.Sadasivan@hellerehrman.com

Cc: Walker, Joshua; dan.hampton@hklaw.com; robert.hawk@hellerehrman.com; Grabow, Troy; Esquenet, Margaret; Hart, Pat; Nagel, Robert; Guy, Hopkins; Joczek; Chatterjee, I. Neel
Subject: RE: Discovery Conference Followup

Dear Monte and Bhanu:

Further to Monte's 2/22/06 9:53am email, please confirm that 9:30am is acceptable as the start time for the deposition on March 1, 2006, and that the deposition will take place at our Palo Alto offices. For your information, our Palo Alto office recently moved to 3300 Hillview Avenue, Palo Alto, CA 94304. The phone number there is 650-849-6600.

As a followup to our discovery conference yesterday:

1. When are the individual Facebook Defendants available for deposition?
2. When will you produce the directory of source code files promised in Neel's 2/21/06 letter?
3. When will you produce the privilege log promised in Neel's 2/21/06 letter?
4. When will you identify the location of the 6 facebook code files allegedly contained on TFB000085 or TFB000086, which Hopkins referred to during my 2/14/06 teleconference with him?
5. Where precisely in your production can we find the facebook.com database structures from (a) prelaunch, (b) launch, and (c) post-launch through December 2004?
6. Please confirm that all of the PERL code promised by Hopkins during our February 14, 2006 teleconference has now been produced.
7. Will you tell us what "non-evasive" means, as used in Facebook Defendants' responses to Interrogatory Nos. 25-26, and amend your responses accordingly??

On another note, we wish to amend paragraph 48 of the First Amended Complaint to read as follows:

"48. The actions of Defendants Zuckerberg, Moskovitz, McCollum, and Hughes described above constitute unfair or deceptive acts or practices in the conduct of trade or commerce within the meaning of M.G.L. ch. 93A, §§ 2, 9, and/or 11."

We also wish to amend the heading of the Second Claim for Relief to read as follows:

"SECOND CLAIM FOR RELIEF
Misappropriation of Trade Secrets
Massachusetts G.L. ch. 266, § 30(4) and ch. 93, § 42"

We also wish to amend Prayer for Relief G to read as follows:

"G. Other relief as the Court may deem appropriate, including increased damages available under applicable law."

We also wish to amend paragraph 5 to read as follows:

"5. Defendant Mark Zuckerberg is an individual and citizen of California."

Do Facebook Defendants (and Saverin) consent to these amendments? If not, we plan to raise them with the Court at the March 3, 2006 hearing.

Sincerely,

John

John F. Hornick
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001
Phone (direct): (202) 408-4076
Phone (main): (202) 408-4000
Fax: (202) 408-4400
E-Mail: john.hornick@finnegan.com

Firm Web site: www.finnegan.com

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